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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of: )  
John Granville Kay et al. )  
Serial No. 09/807,167 )  
Filed April 9, 2001 )  
FLOOR COVERING MATERIAL AND )  
METHOD FOR PRODUCING SAME )

**RECEIVED**  
**18 JAN 2002**  
Legal Staff  
International Division

**DECLARATION TO ESTABLISH UNAVAILABILITY OF INVENTOR**  
**UNDER 37 C.F.R. §1.47(a)**

I, John Granville Kay a British subject, with an address of 5 White Brow, Bury, Manchester, BL9 8BT, Great Britain declare as follows:

1. I am the Technical Director of Polyflor Limited, a British company of P.O. Box 3, Radcliffe New Road, Whitefield, Manchester, M45 7NR, Great Britain and I am entitled to make this Declaration on behalf of Polyflor Limited.
2. Polyflor Limited is the current name of the company previously called James Halstead Limited, the change of name having occurred on 1<sup>st</sup> March 2000. As such Polyflor Limited and James Halstead Limited are, in effect, the same legal entity.
3. Polyflor Limited is the Assignee in respect of the US patent application derived from PCT application No. PCT/GB99/03169 for which I named as an inventor jointly with Michael Geoffrey Minett, Grenville Seager, Adrian Lance Entwistle and Craig Lee Crosby.

4. A Declaration for the above U.S. Utility Application in accordance with 37 C.F.R. §1.63 was submitted on 11 July 2001 (hereinafter the "Oath"). The Oath was executed by all but one inventor, Mr. Grenville Seager, due to his unavailability.

5. Grenville Seager was an employee of James Halstead Limited and commenced his employment with that company on 7<sup>th</sup> July 1997. His employment continued with Polyflor Limited subsequent to the company change of name above.

6. Grenville Seager terminated his employment with James Halstead Limited on 30<sup>th</sup> May 2000. As of that date the address we had for him was as follows:

87 Bury New Road  
Whitefield  
Manchester  
M45 7EG Great Britain

7. Mr. Seager's current address and telephone number are unknown. Subsequent attempts to locate a forwarding address and telephone number have not resulted in contacting Mr. Seager.

8. A copy of an assignment of Mr. Seager's rights to the above United States application to James Halstead Ltd. is attached as Exhibit A.

9. Attached as Exhibit B is a copy of a letter sent via Recorded Delivery to Mr. Seager at his last known address. The letter enclosed a copy of the application and the Oath for signature. The letter requested that Mr. Seager sign the Oath.

10. The envelope containing the letter attached as Exhibit B was returned by the Royal Mail as undeliverable with the indication that, "addressee has gone away." A copy of this envelope and stamp is attached as Exhibit C.

11. The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U. S C. 1001, and

that willful false statements may jeopardize the validity of the application or any resulting registration, declares that the facts set forth in this application are true; all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

Respectfully submitted:

  
\_\_\_\_\_  
John Granville Kay

# **Exhibit A**

ASSIGNMENT

THIS ASSIGNMENT is made BETWEEN

Grenville Seager of 87 Bury New Road, Whitefield, Manchester, M45 7E.G., United Kingdom

(hereinafter called "the Assignor")

AND

James Halstead Ltd, P.O. Box 3, Radcliffe New Road, Whitefield, Manchester, M45 7NR, United Kingdom  
(hereinafter called "the Assignee").

WHEREAS

- (A) Grenville Seager is the inventor of an invention relating to Floor Covering Material (hereinafter referred to as "the Invention") which is the subject of an International Patent Application No. PCT/GB99/03169 [entitled Floor Covering Material] filed on 11<sup>th</sup> October 1999 and designating amongst other countries the United States of America (hereinafter referred to as "the Application")
- (B) The Assignor is the applicant for the Application in so far as it relates to the United States of America
- (C) The parties hereto have agreed that all the Assignor's rights in the Invention and the Application and rights ancillary thereto should be transferred by the Assignor to the Assignee for the consideration hereinafter set forth.

NOW THIS ASSIGNMENT WITNESSETH AS FOLLOWS:

1. In consideration of the sum of £1 paid by the Assignee to the Assignor (the receipt of whereof is hereby acknowledged) the Assignor hereby assigns to the Assignee with full title guarantee all the Assignor's right, title and interest in the Invention and the Application insofar as it relates to the United States of America, and all the rights, powers, liberties and immunities conferred on the proprietor thereof by the grant of Patents thereon free from all encumbrances, including the right to sue for damages or other remedies in respect of any infringement of such rights prior to the date hereof TO HOLD unto the Assignee absolutely.
2. The Assignor agrees to execute all papers and documents necessary in connection with the Application or any interference which may be declared and any continuing or divisional applications thereof and also to execute separate assignments in connection with such applications as the Assignee may deem necessary or expedient and further to perform any act which may be necessary in connection with claims or provisions of the International Convention for Protection of Industrial Property or similar agreements.
3. The Assignor agrees to perform all affirmative acts which may be necessary to obtain a grant of a valid United States patent to the Assignee.
4. The Assignor hereby authorizes and requests the Commissioner of Patents to issue any and all Letters Patent of the United States resulting from the Application or any division or divisions or continuing applications thereof to the Assignee, as Assignee of the entire interest, and hereby covenants that he has full right to convey the entire interest herein assigned and that he has not executed and will not execute any agreement in conflict herewith.
5. The Assignor hereby grants the firm of MARKS & CLERK the power to insert on this assignment any further identification which may be necessary or desirable in order to comply with the rules of the United States Patent Office for recordation of this document.

IN WITNESS WHEREOF THE PARTIES HERETO HAVE EXECUTED THIS ASSIGNMENT

EXECUTED ON 10/11/99 [date]  
BY THE ASSIGNOR

  
Grenville Seager  
IN THE PRESENCE OF

J M Xanto  
WITNESS

EXECUTED ON ..... [date]  
FOR AND ON BEHALF OF THE ASSIGNEE BY

.....  
Authorized Officer  
IN THE PRESENCE OF

.....  
WITNESS

# **Exhibit B**

20 August 2001

Mr G Seager  
87 Bury New Road  
Whitefield  
Manchester  
M45 7EG

**BY RECORDED DELIVERY**

Dear Mr Seager

Re: PCT Application No. PCT/GB99/03169  
(Published as WO-A-0022225)  
**POLYFLOR LIMITED**  
(Formerly James Halstead Limited)

You will recall that you are named as one of the inventors of the floor covering material as described in the above patent specification (copy enclosed).

We are now proceeding with a US application for which a copy of the claims is also enclosed.

In order to meet the requirements of the US Patent Office I would be grateful if you could sign the enclosed Declaration form at the position indicated. Please sign with your full Christian name and also include the date of signature written in full, (e.g. 25<sup>th</sup> August 2001).

Please return the executed Declaration to me in the near future.

Thank you for your assistance.

Yours sincerely

  
.....  
**M Minett**  
**Research & Development Manager**



Please type a plus sign (+) inside this box → ☐

PTO/SB/01 (10-00)

Approved for use through 10/31/2002. OMB 0651-0032  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**DECLARATION FOR UTILITY OR  
DESIGN  
PATENT APPLICATION  
(37 CFR 1.63)**

☒ Declaration Submitted with Initial Filing unsigned  
OR  
☐ Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)

Attorney Docket Number 7413-3  
First Named Inventor<sup>1</sup> John Granville KAY

**COMPLETE IF KNOWN**

Application Number /  
Filing Date  
Group Art Unit  
Examiner Name

As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

FLOOR COVERING MATERIAL AND METHOD FOR PRODUCING SAME

(Title of the Invention)

the specification of which

☐ is attached hereto  
OR

☒ was filed on (MM/DD/YYYY) 10/11/1999 as United States Application Number or PCT International

Application Number PCT/GB99/03169 and was amended on (MM/DD/YYYY) (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?	
				YES	NO
9822019.7 99/03169	GB	10/09/1998 10/11/1999	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
				<input type="checkbox"/>	<input checked="" type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/025 attached hereto.

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date (MM/DD/YYYY)	<input type="checkbox"/> Additional provisional application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 21 minutes to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Please type a plus sign (+) inside this box → ☐

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Approved for use through 10/31/2002. OMB 0651-0032  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

## DECLARATION — Utility or Design Patent Application

Direct all correspondence to: ☐ Customer Number or Bar Code Label ☐ OR ☒ Correspondence address below

Name Thomas Q. Henry @ WOODARD, EMHARDT, NAUGHTON, MORIARTY & MCNETT

Address Bank One Center/Tower, Suite 3700

Address 111 Monument Circle

City Indianapolis

State IN

ZIP 46204

Country US

Telephone 317-634-3456

Fax 317-637-7561

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF SOLE OR FIRST INVENTOR:

☐ A petition has been filed for this unsigned inventor

Given Name

(first and middle (if any)) John Granville

Family Name

or Surname KAY

Inventor's  
Signature

Date

Residence: City Manchester

State

Country GB

Citizenship GB

Mailing Address 5 White Brow

Mailing Address Bury, Manchester BL9 8BT

City Manchester

State

ZIP BL9 8BT

Country GB

NAME OF SECOND INVENTOR:

☒ A petition has been filed for this unsigned inventor

Given Name

(first and middle (if any)) Michael Geoffrey

Family Name

or Surname MINETT

Inventor's  
Signature

Date

Residence: City Manchester

State

Country GB

Citizenship GB

Mailing Address 14 St. Austell's Drive

Mailing Address Prestwich, Manchester M25 1LZ

City Manchester

State

ZIP M25 1LZ

Country GB

☒ Additional inventors are being named on the 1 supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto.

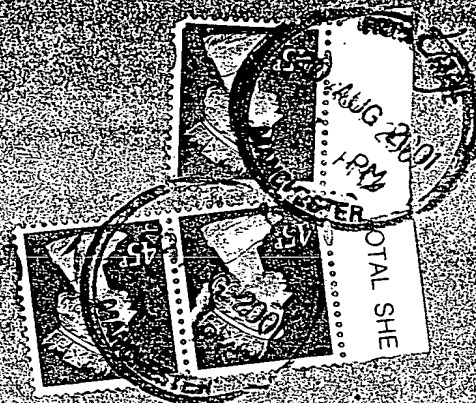
# **Exhibit C**

Royal Mail recorded 1st class

Signed for



RA 93941537 4GB



**POLYFLOR**  
COVERING THE WORLD

**RECORDED DELIVERY**

Mr G Seager  
87 Bury New Road  
Whitefield  
Manchester  
M45 7EG

**Royal Mail**  
We were unable to deliver this item because

<input checked="" type="checkbox"/> addressee has gone away	<input type="checkbox"/> address unknown
<input type="checkbox"/> no answer	<input type="checkbox"/> refused
<input type="checkbox"/> address incomplete	<input type="checkbox"/> not called for
<input type="checkbox"/> address inaccessible	

no such address in \_\_\_\_\_  
date 21/8/01 initials SV  
badge number \_\_\_\_\_

P3960/97/302543

POLYFLOR LTD. PO BOX 3 RADCLIFFE NEW ROAD WHITEFIELD MANCHESTER M45 7N  
TEL: +44 (0)161 767 1111 FAX: +44 (0)161 767 1100 E-MAIL: INFO@POLYFLOR.COM WEB: V